

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

M.S., a Minor, by and through his Parents and Natural	:	Judge Christopher C. Conner
Guardians, MICHELLE M.S. and D.S.,	:	
Plaintiffs,	:	
vs.	:	No.: 1:08-CV-2271
	:	
CEDAR BRIDGE MILITARY ACADEMY, FIRST	:	
SERGEANT STEVEN T. BARYLA, YORK-ADAMS	:	
COUNCIL BOY SCOUTS OF AMERICA and BOY	:	
SCOUTS OF AMERICA,	:	
Defendants.	:	JURY TRIAL DEMANDED

AMENDED CASE MANAGEMENT ORDER

AND NOW, this ____ day of _____, 2010, upon consideration of the Motion to Modify Case Management Order of Defendants, York-Adams Council, Inc., and there being good cause shown for granting of the relief requested, it is ORDERED that the Motion is GRANTED and the Case Management Order entered on March 18, 2010, shall be modified to extend all deadlines set forth therein for a period of six (6) months as follows:

A.	Jury Selection/Trial Date	_____, 2011
B.	Fact Discovery Deadline	June 30, 2011
C.	Dispositive Motion & Supporting Briefs	July 18, 2011
D.	Motions in Limine & Supporting Briefs	October 18, 2011
E.	Final Pretrial Conference	November 21, 2011
F.	Pretrial Memoranda	November 14, 2011
G.	Plaintiffs' Expert Report(s)	July 18, 2011
H.	Defendants' Expert Report(s)	August 18, 2011
I.	Supplemental/Rebuttal Expert Reports	September 19, 2011
J.	Proposed Voir Dire Questions	November 21, 2011

K. Proposed Jury Instructions

November 21, 2011

All other instructions and guidelines set forth in the original Case Management Order (Doc. 28) dated September 29, 2009, shall remain in full force and effect except as modified herein.

J.

klr/boyscoutms-casemgmtorder1

GRIFFITH, STRICKLER, LERMAN, SOLYMOS & CALKINS

By: Robert A. Lerman, Esquire #07490

110 S. Northern Way

York, PA 17403-3737

Attorney for Defendants, York-Adams Area Council, Inc. (erroneously identified as York-Adams Council Boy Scouts of America)

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

M.S., a Minor, by and through his Parents and Natural

Guardians, MICHELLE M.S. and D.S.,

Plaintiffs,

vs.

CEDAR BRIDGE MILITARY ACADEMY, FIRST

SERGEANT STEVEN T. BARYLA and YORK-ADAMS

COUNCIL BOY SCOUTS OF AMERICA,

Defendants.

No.: 1:08-CV-2271

JURY TRIAL DEMANDED

MOTION OF DEFENDANT, YORK-ADAMS AREA COUNCIL, INC.
(ERRONEOUSLY IDENTIFIED AS YORK-ADAMS COUNCIL
BOY SCOUTS OF AMERICA), TO MODIFY CASE MANAGEMENT
ORDER DATED MARCH 18, 2010

AND NOW comes Defendant, York-Adams Council, Inc. erroneously identified as York-Adams Area Council Boy Scouts of America, by its counsel Robert A. Lerman and Griffith, Strickler, Lerman, Solymos & Calkins and files the following Motion to Modify Case Management Order dated March 18, 2010, the grounds for which are as follows:

1. On March 16, 2010 (subsequent to the filing of an Amended Civil Action joining Moving Defendant as a party), Moving Defendant filed for an extension of the deadlines set forth in the Court's Case Management Order dated September 29, 2009 (with the concurrence of opposing counsel) and the Motion was granted by this Honorable Court by Order dated March 18, 2010.

2. On May 19, 2010, the following written discovery requests were directed to the Plaintiffs by Moving Defendant:

- a. Interrogatories of Defendant, York-Adams Area Council, Inc., to Plaintiffs, M.S., a Minor, by and through his Parents and Natural Guardians, Michelle M.S. and D.S., and Plaintiffs, Michelle M.S. and D.S., Set No. 1;
- b. Request for Production of Documents of Defendant, York-Adams Area Council, Inc., to Plaintiffs, M.S., a Minor, by and through his Parents and Natural Guardians, Michelle M.S. and D.S. and Plaintiffs, Michelle M.S. and D.S., Set No. 1;
- c. Interrogatories of Defendant, York-Adams Area Council, Inc., to Plaintiffs, M.S., a Minor, by and through his Parents and Natural Guardians, Michelle M.S. and D.S. and Plaintiffs, Michelle M.S. and D.S., Set No. 2; and
- d. Interrogatories of Defendant, York-Adams Area Council, Inc., to Plaintiffs, Michelle M.S. and D.S., Set No. 3.

3. On September 3, 2010, Moving Defendant took the deposition of Defendant, Steven T. Baryla (at his place of incarceration at Monmouth County Correctional Facility) and also took the deposition of Danielle Berndt, an individually formerly affiliated with Defendant, Cedar Bridge Military Academy.

4. Following the depositions of Mr. Baryla and Ms. Berndt, Moving Defendant served additional discovery (Request for Production of Documents, Set No. 2) on the Plaintiffs on September 27, 2010.

5. On September 29, 2010, Moving Defendant's counsel scheduled the depositions of minor Plaintiff and his parents to take place on November 11, 2010, and Plaintiffs' counsel also scheduled the depositions of two representatives of Moving Defendant to take place on November

15, 2010.

6. Due to Plaintiffs failure to respond to any of Moving Defendant's written discovery requests, on October 15, 2010, Moving Defendant's counsel corresponded with Plaintiffs' counsel requesting that Plaintiffs answer all written discovery on or before November 1, 2010. A copy of said correspondence is attached and marked **Exhibit 1**.

7. On November 5, 2010, the office of Moving Defendant's counsel spoke with the office of Plaintiffs' counsel advising that the depositions of the Plaintiffs and the depositions of representatives of Moving Defendant would be canceled due to Plaintiffs' failure to respond to any of Moving Defendant's written discovery requests. On November 8, 2010, the office of Plaintiffs' counsel informed Moving Defendant's counsel that Plaintiffs' counsel did not object to the cancellation of the depositions. A copy of the correspondence dated November 8, 2010, to Plaintiffs' counsel memorializing this agreement is attached and marked and **Exhibit 2**.

8. On November 9, 2010, counsel for Plaintiffs, Edward Shensky, and counsel for Moving Defendant, Robert A. Lerman, spoke by telephone at some length with regard to outstanding discovery issues in this case whereby it was agreed that Moving Defendant's counsel would move for a further extension of the Case Management Order deadlines. A copy of the correspondence to Attorney Shensky dated November 9, 2010, is attached and marked **Exhibit 3**.

9. On November 12, 2010, Moving Defendant's counsel received Plaintiffs' Answers to the outstanding written discovery requests and, for the most part, the responses are sufficient and to the extent some of the responses are not sufficient, Moving Defendant's counsel will work directly with Plaintiffs' counsel to resolve any issues.

10. Further complicating and delaying discovery in this case is the incarceration of Mr.

Baryla and his inability to respond to written discovery requests including the production of documents. Mr. Baryla's paper records and computer files were seized by law enforcement authorities in connection with the criminal charges filed against Mr. Baryla (unrelated to this civil matter).

11. Commencing September 8, 2010, and periodically since that date, Moving Defendant's counsel has been in communication with Michael A. Schroeder, Esquire, Deputy U.S. Marshal with the U.S. Marshals Services (in Trenton, New Jersey) with an outstanding and ongoing request to review and inspect the electronic and paper records and documents seized by law enforcement authorities in connection with Steven Baryla and Cedar Bridge Military Academy in an effort to obtain documentation relevant to this civil lawsuit to include the application of the Minor Plaintiff to Cedar Bridge Military Academy Summer Camp in 2007, his acceptance for the program, the Cadet Handbook and any other documentation issued to him as well as to ascertain correct names, addresses and telephone numbers of adult leaders of Cedar Bridge Military Academy, parent adult leader volunteers for Cedar Bridge Military Academy, and cadet campers for the relevant summer camping session.

12. Moving Defendant's counsel has also been in communication, for the same period of time, with Michael A. Schroeder, Esquire, Deputy U.S. Marshal with the U.S. Marshals Services (in Trenton, New Jersey) and with Mr. Baryla's personal counsel, David T. Schlendorf, Esquire, with regard to the status of his criminal charges in an effort to secure access to the documents and records once disposition of the criminal charges has been reached. Attached and marked **Exhibit 4** is the most recent correspondence from Moving Defendant's counsel to Michael A. Schroeder, Esquire dated October 29, 2010, to which Mr. Schroeder's office responded by calling on November 3, 2010,

and advising that the plea/sentencing hearing scheduled for October 29, 2010, did not occur because of some incident at the Monmouth County Correctional Facility involving Mr. Baryla and advising that a new date has not yet been scheduled.

13. Under the circumstances presented as described herein, Moving Defendant requests that the deadlines set forth in the existing Case Management Order of March 18, 2010, be extended by six months and included with this filing is a proposed Amended Case Management Order for the Court's consideration, to which Plaintiffs' counsel concurs.

14. Counsel for Plaintiffs (Edward Shensky, Esquire) and Cedar Bridge Military Academy and Steven Baryla (David T. Schlendorf, Esquire) advised that they concur in this extension and in the deadline extension requested.

15. The current fact discovery deadline is December 30, 2010.

WHEREFORE, Moving Defendant, York-Adams Area Council, Inc. (erroneously identified as York-Adams Council Boy Scouts of America), respectfully requests this Honorable Court issue an Amended Case Management Order extending all case deadlines by six (6) months.

GRIFFITH, STRICKLER, LERMAN, SOLYMOS &
CALKINS

BY: _____/s/_____
Robert A. Lerman, Esquire #07490
Attorney for Defendants, York-Adams Council Boy
Scouts of America and Boy Scouts of America
110 South Northern Way
York, PA 17402-3737 (717) 757-7602

Dated: November 19, 2010

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By the National Board of Trial Advocacy

Robert A. Lerman's EMAIL: rlerman@gsllsc.com

Please reply to York office

October 15, 2010
(Dictated October 14, 2010)

VIA FACSIMILE AND U.S. MAIL

Edward Shensky, Esquire
Stark & Stark
P.O. Box 1500
Newton, PA 18940-0894

RE: M.S., a Minor, by and through his Parents and Natural Guardians, Michelle M.S. and D.S. v. Cedar Bridge Military Academy, First Sergeant Steven T. Baryla and York-Adams Council Boy Scouts of America, United States District Court for the Middle District of Pennsylvania, Case No.: 1:08-CV-02271-CCC

Dear Ed:

We have not yet received responses from Plaintiffs to any of our written discovery requests. We acknowledge receipt of Plaintiffs Initial Rule 26(a) Disclosures. However, we are entitled to formal answers to our written discovery as well. In that regard, I would ask that we receive complete verified responses to the following discovery requests **no later than November 1, 2010:**

1. Answers of **all** Plaintiffs to YAAC's Interrogatories, Set No. 1 (propounded May 19, 2010). Please note I also wrote a follow up letter to you on July 19, 2010 and a copy of that letter is enclosed.
2. Responses of **all** Plaintiffs to YAAC's Request for Production of Documents, Set No. 1 (propounded May 19, 2010).



Edward Shensky, Esquire
October 15, 2010
Page 2

3. Answers to Interrogatories of YAAC to **all** Plaintiffs, Set No. 2 (propounded May 19, 2010).
4. Interrogatories of YAAC to Parent Plaintiffs, Set No. 2 (Propounded May 19, 2010).
5. Request for Production of Documents of YAAC to Minor Plaintiff, Set No. 2 (propounded September 27, 2010).

You need not re-duplicate the documents already supplied as part of Plaintiffs Initial Rule 26(a) Disclosures on May 13, 2010 and may simply reference production of any specific documents as already supplied, as applicable, in your formal Answers to Interrogatories or Responses to Request for Production of Documents.

Unfortunately, if we do not receive full and complete responses to these outstanding discovery requests (most of which have been overdue since June 2010), we will have no alternative but to request a telephone conference with Judge Conner to address this issue. Inasmuch as Judge Conner requires that counsel attempt, in good faith, to resolve discovery disputes before involving the Court, please consider this letter our request for Plaintiffs immediate compliance with Defendant, YAAC's outstanding discovery.

Very truly yours,

COPY

ROBERT A. LERMAN
jml/boyscoutms-ltr
Enclosures

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Robert A. Lerman's EMAIL: rlerman@qslsc.com

Please reply to York office

November 8, 2010

Edward Shensky, Esquire
Stark & Stark
P.O. Box 1500
Newton, PA 18940-0894

VIA FACSIMILE AND U.S. MAIL

RE: M.S., a Minor, by and through his Parents and Natural Guardians, Michelle M.S. and D.S. v. Cedar Bridge Military Academy, First Sergeant Steven T. Baryla and York-Adams Council Boy Scouts of America, United States District Court for the Middle District of Pennsylvania, Case No.: 1:08-CV-02271-CCC

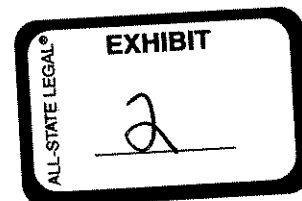
Dear Ed:

This will confirm that all depositions in this case have been cancelled; *i.e.*, Plaintiffs' depositions on November 11, 2010, and depositions of YAAC employees on November 15, 2010, due to Plaintiffs' failure to answer our written discovery requests. We understand from Gina of your office that you will be calling us to discuss these issues including an agreed upon extension of the December 30, 2010, discovery deadline (which will, of course, require the filing of a Motion for Judge Connor's approval).

This will confirm Lindy Sweeney of my office left a voice message for Gina of your office requesting she call to set up a date and time specific this week for our conference call.

Very truly yours,
COPY

ROBERT A. LERMAN
klr/boyscoutms-ltr



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Robert A. Lerman's EMAIL: rlerman@gsisc.com

Please reply to York office

November 9, 2010

VIA FACSIMILE AND U.S. MAIL

Edward Shensky, Esquire
Stark & Stark
P.O. Box 1500
Newton, PA 18940-0894

RE: M.S., a Minor, by and through his Parents and Natural Guardians, Michelle M.S. and D.S. v. Cedar Bridge Military Academy, First Sergeant Steven T. Baryla and York-Adams Council Boy Scouts of America, United States District Court for the Middle District of Pennsylvania, Case No.: 1:08-CV-02271-CCC

Dear Ed:

This letter is written to confirm our discussion earlier today and your subsequent telephone conversation with Lindy Sweeney of my office regarding the above-captioned matter.

This will confirm that you indicated that Plaintiffs' delinquent responses to our multiple discovery requests will be placed in the mail to us this week. Thank you.

This will confirm you indicated that you appreciated and understand the basis for our cancellation of all depositions in this case due to Plaintiffs' failure to respond to our discovery requests and further, that after reviewing the current Case Management Order, you advised you will concur in an extension of the December 30, 2010, fact discovery deadline and an extension of all other deadlines proportionally. In the near future, we will transmit a proposed Revised Case Management Order to you for your concurrence and then submit same, via Motion, to Judge Conner, for execution of the Order.



Edward Shensky, Esquire
November 9, 2010
Page Two

This will confirm that we did not receive any psychological counseling "tapes" in response to our request directed to Plainville Youth Services on July 19, 2010. As we indicated today, the office of the Plainville Youth Services called and indicated that they taped no counseling sessions of Marcus Slivinsky. It appears that the reference in the records was to "taps" and Emotional Freedom Technique "EFT," apparently a form of therapy employed.

Thank you for just providing a copy of records from UConn Health Partners/Department of Psychiatry, a Division of Child and Adolescence Psychiatry (University of Connecticut Health Center). We noted (in preliminarily reviewing these records) that the notes from the mental health provider who counseled Marcus Slivinsky on June 1, 2010) that Marcus apparently dictated a narrative of events which apparently began with "the trip down to boot camp" and the therapist typed the narrative as Marcus dictated it. There are further references to the preparation of this psychotherapy narrative in at least one subsequent note. **No copy of any such narrative (typed or otherwise) was provided in the records we received. Accordingly, we would ask that you obtain a copy of any and all drafts of the narrative (if you have not already done so) and provide it to us. We will require this narrative before rescheduling the depositions of the Plaintiffs.**

If you have any questions, please contact me or Lindy Sweeney.

Very truly yours,

COPY

ROBERT A. LERMAN
klr/boyscoutms-ltr

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Please reply to York office

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JOHN C. PORTER~

OF COUNSEL

MICHAEL P. BIANCHINI

October 29, 2010
(Dictated October 19, 2010)

VIA FACSIMILE 609-989-2145 AND U.S. MAIL

Michael A. Schroeder, Esquire
Deputy U.S. Marshal
U.S. Marshals Services
402 E. State Street
Trenton, NJ 08608

RE: M.S., a Minor, by and through his Parents and Natural Guardians, Michelle M.S. and D.S. v. Cedar Bridge Military Academy, First Sergeant Steven T. Baryla and York-Adams Council Boy Scouts of America, United States District Court for the Middle District of Pennsylvania, Case No.: 1:08-CV-02271-CCC

Dear Attorney Schroeder:

I write in follow up to my letter to you of September 8, 2010, regarding the above-captioned matter. Another copy of that letter is enclosed for your convenience.

It is my understanding that Mr. Baryla's plea and sentencing hearing was rescheduled from September 17, 2010, until October 29, 2010.

Accordingly, assuming the plea and sentencing has taken place I would appreciate hearing back from you in response to my letter of September 8, 2010.

Very truly yours,

COPY

ROBERT A. LERMAN
jml/boyscoutms-ltr



UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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SERGEANT STEVEN T. BARYLA, YORK-ADAMS	:	
COUNCIL BOY SCOUTS OF AMERICA and BOY	:	
SCOUTS OF AMERICA,	:	
Defendants.	:	JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

AND NOW, this 19th day of November, 2010, I, Robert A. Lerman, a member of the firm of GRIFFITH, STRICKLER, LERMAN, SOLYMOS & CALKINS, hereby certify that I have this date served a copy of the **Motion of Defendant, York-Adams Council Boy Scouts of America, to Modify Case Management Order of March 18, 2010** by United States Mail, addressed to the party or attorney of record as follows:

Edward Shensky, Esquire
Stark & Stark
P.O. Box 1500
Newton, PA 18940-0894
Counsel for Plaintiffs

David T. Schlendorf, Esquire
1108 Hopper Avenue, Unit 2
Toms River, NJ 08753
Counsel for Defendants, Cedar Bridge
Military Academy and First Sergeant
Steven T. Baryla

GRIFFITH, STRICKLER, LERMAN, SOLYMOS &
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BY: /s/
Robert A. Lerman, Esquire #07490
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